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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,466	11/21/2003	Robert G. Penlesky	018695-9334-00	2595
23409	7590	01/11/2005	EXAMINER	
MICHAEL BEST & FRIEDRICH, LLP 100 E WISCONSIN AVENUE MILWAUKEE, WI 53202			NGUYEN, NINH H	
			ART UNIT	PAPER NUMBER
			3745	
DATE MAILED: 01/11/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

87

## Office Action Summary

Application No.

10/719,466

Applicant(s)

PENLESKY ET AL.

Examiner

Ninh H. Nguyen

Art Unit

3745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 34-42 is/are allowed.
- 6) ☒ Claim(s) 1-3, 8, 12, 15, 16, 19, 22, 24, 25, 27 and 31 is/are rejected.
- 7) ☒ Claim(s) 4-7, 9-11, 13, 14, 17, 18, 20, 21, 23, 26, 28-30, 32 and 33 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3, 8, 12, 15, 16, 19, 22, 24, 25, 27, and 31 are rejected under 35 U.S.C. 102(e) as being anticipated by Arbogast et al. (6,795,314).

Arbogast discloses a fan (Figs. 2-9), comprising: a housing (Fig. 2) having a fluid inlet through which fluid is received within the housing and a fluid outlet through which fluid exits the housing, the housing adapted to interchangeably receive a first module 122, 124 (Fig. 7) having a first support plate (top plate) ; and a second module having a second support plate (single fan having the same depth as fans 122 and 124; col. 5, lines 16-19), each of the first and second modules having at least one of a motor and a fan wheel operable to generate a flow of fluid out of the fluid outlet (Fig. 7); wherein the fan wheel of the first module has a size different than the fan wheel of the second module, respectively (by virtue of a single fan having the same depth as combination of fans 122 and 124, hence different fan wheel size at least in axial length);

wherein the housing has a first fastener 76, and wherein the first and second modules each have a second fastener releasably engageable with the first fastener to couple the first and second modules to the housing; and

Art Unit: 3745

wherein the housing includes a first electrical connector (not shown), and wherein the first and second modules each include a second electrical connector 116 releasably engageable with the first electrical connector to electrically connect the housing with the first and second modules, respectively.

***Allowable Subject Matter***

3. Claims 34-42, due to the limitation of the method steps of withdrawing the first module from the interior space, and removing the first support plate from the opening, are allowed.
4. Claims 4-7, 9-11, 13, 14, 17, 18, 20, 21, 23, 26, 28-30, 32, and 33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Prior Art***

The prior art made of record but not relied upon is considered pertinent to applicant's disclosure and consists of 1 patent.

Schneider (3,946,648) is cited to show a fan having interchangeable motors with different sizes.

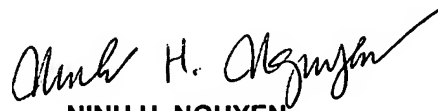
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Ninh Nguyen whose telephone number is (571) 272-4823. The examiner can be normally reached on Monday-Friday from 7:30 A.M. to 5:00 P.M.

Art Unit: 3745

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look, can be reached at (571) 272-4820. The fax number for this group is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, please go to <http://pair-direct.uspto.gov> or contact the Electronic Business center (EBC) at 866-217-9197 (toll-free).

  
NINH H. NGUYEN  
PRIMARY EXAMINER

Nhn  
January 7, 2005